IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22260 of 2019

==

Dayanand Ayurvedic Medical College and Hospital at and P.o.- Siwan District Siwan through the principal.

... ... Petitioner/s

Versus

1. The Union of India through the Principal Commissioner, Income Tax, Muzaffarpur O.O. Distt.- Muzaffarpur
2. The Income Tax Officer(exemption) Ward, Muzaffarpur, P.o & PS-Distt.- Muzaffarpur

... ... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. Nand Kishore Singh, Advocate.
For the Respondent/s : Mrs. Archana Sinha, Advocate.

==

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-12-2020

Petitioner has prayed for the following relief(s):-

> "(i) To issue a writ of mandamus of any other appropriate writ order direction for production of any such order giving rise to tax demand of Rs. 3327570/- and for quashing such order and the demand notice dated 18.06.2019 issued by respondent no. 2 without passing/serving any order for creating the tax stated in the said notice.
>
> (ii) To declare further that the petitioner being education institution established and being run for sole purpose of imparting Ayurvedic system of education and treatment

patients is exempt from payment tax under the provisions of section 10(23C) (I) and (v) of the income Tax Act 1961 as the college has already been granted exemption u/s 10 (23C) of the said Act. And complies all the requirement of being exempted from payment of tax.

(iii) To direct the respondents to give effect to exemption granted by the department by notification no. 3917-4016 dated 29.1.2014 exempting the income of the petitioner from payment of Income Tax as purely education institution being run under the administrative control of Mithila University under the Bihar University Act 1976 and also by Government of India.

(iv) To grant any such other relief/reliefs for which the petitioner is entitled to under the facts and circumstances."

There is dispute with regard to issuance and service of order giving rise to the demand notice dated 08.08.2019/09.10.2019.

Ms. Archana Sinha, learned counsel for the respondents, states that the same was sent by registered post as also through electronic mode i.e. email, which fact is seriously disputed by Shri Nand Kishiore Singh, learned counsel for the petitioner.

It is seen that there is no material placed on record indicating the receipt of notice.

As such the present petition is disposed of on the following mutually agreeable terms:-

(i) Copy of the order passed under Section 154 of the Income Tax Act, 1961 shall be supplied to the learned counsel for the petitioner, which is deemed to have been received by the petitioner today, as the same is annexed, being part of Annexure-A (Page 10 of the counter affidavit filed on behalf of the respondents);

(ii) Petitioner is granted liberty to take recourse to such remedies as are otherwise permissible in law;

(iii) It stands clarified that if the petitioner were to exhaust the same within a period of one month from today, the issue of limitation, as so stated by Ms. Archana Sinha, shall not be raised or allowed to come in the way of adjudication of the matter on merits.

(iv) Petitioner undertakes to fully co-operate during the course of such proceeding, which he may initiate.

(v) Till such time, petitioner takes recourse to remedy supra and the order passed by the authority, the demand in question shall be kept in abeyance and not enforced against the petitioner.

(vi) If, however, petitioner chooses not to take recourse to the remedy provided under law within a period of four weeks from today, it shall be open for the respondents to enforce the demand in terms of demand notice, subject matter of the present petition. For it would be deemed to be understood that petitioner has accepted the correctness of such order.

Petition stands disposed of.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(Prabhat Kumar Singh, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.12.2020
Transmission Date	